

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00003, to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District), with the following conditions:

1. One of the units on the property shall be and remain owner-occupied. The main house shall not be used simultaneously for accessory lodging under any provision of Section 5.010.
2. The Supplemental Apartment shall:
 - a. Consist of a one bedroom apartment, substantially in accordance with the floor plans, Sheet A-1.0, prepared by Kraus Fitch, AIA, dated July 23, 2013.
 - b. Notwithstanding the provisions of Section 12.16, a supplemental apartment shall be occupied by a total of no more than three (3) people.
3. The exterior of the building shall be renovated and constructed substantially in accordance with the elevations, Sheet A2.1, prepared by Kraus Fitch, AIA, dated July 23, 2013.
4. The parking on-site shall provide four parking spaces, inclusive of the garage space. As shown on the annotated approved site plan, one vehicle may be parked along the west side of the driveway so as to not block access into the garage.
5. The Supplemental Apartment shall be managed substantially in accordance with the submitted Management Plan.
6. Prior to the issuance of a Certificate of Occupancy, the property shall be registered under the Amherst Residential Rental Property Bylaw, as amended. Loss or suspension of a rental permit shall constitute a violation of this condition.
7. Any new exterior lighting associated with the Supplemental Apartment shall be designed or arranged to be downcast.
8. Upon change of ownership of the property, the new owner shall submit a revised Management Plan, including all requirements required for "apartments", for review and approval by the Zoning Board of Appeals at a public meeting. The Board shall determine if any changes are significant enough to require modification of the Special Permit.



Eric Beal, Chair
Amherst Zoning Board of Appeals

10/1/13
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Joshua Hornick and Jennifer Lind, 94 Summer Street, Amherst, MA 01002

Date application filed with the Town Clerk: July 25, 2013

Nature of request: For a Special Permit to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw

Address: 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District)

Legal notice: Published on August 14, 2013 and August 21, 2013 in the Daily Hampshire Gazette and sent to abutters on August 15, 2013

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner

Submissions:

- Project Application Report, dated August 27, 2013
- Application form filed with the Town Clerk on July 25, 2013
- Project Summary and Management Plan
- Sample Lease
- Site Plan prepared by Kraus Fitch, AIA, dated July 23, 2013
- Floor Plans & Elevations prepared by Kraus Fitch, AIA, dated July 23, 2013
- Existing Conditions Survey, prepared by Harold Eaton Associates, dated July 13, 2012

Site Visit: August 28, 2013

Tom Ehrgood and Mark Parent met the applicant, Jennifer Lind, and the architect Scott Donovan, on-site. They observed the location of the property along the north side of Summer Street, and the following:

- The existing driveway and house setback substantially from Summer Street. The area adjacent to the house and garage suitable for parking and an existing vehicle turnaround area. No other residential structures exist on the immediately adjacent lots.
- The interior of the second floor of the garage, to be renovated into the proposed dwelling unit.

Public Hearing: August 29, 2013

The applicant, Jennifer Lind, was accompanied by her architect, Scott Donovan, from Kraus Fitch Architects. The project was presented in terms of the plans, summarized as follows:

- The proposal involves the interior renovation of an existing second floor space above a garage. A new 12 foot by 12 foot deck will be constructed at the rear of the structure and access will be provided by a new, external staircase and an existing internal stairway within the garage.
- The apartment will consist of one bedroom, a kitchen/living room and bathroom.

- Other exterior changes include the installation of a sliding or French door on the north elevation and a new exterior light over the stairway.
- The proposal provides for four parking spaces, including two in the existing garage and two in the area of the driveway in front of the main house. A new motion sensor floodlight, oriented downward toward the driveway would be installed on the garage.

The applicant noted that it would be unlikely that there would be four cars on the property and requested permission to park one vehicle on the west side of the driveway. It was noted that there is a bump out in that location which would allow a car to park there without blocking access to the garage space. The Board determined that the revision to the parking plan was reasonable and marked up the approved site plan.

Based on a question from the applicant, the Board discussed whether the owner could rent the unit if they went on sabbatical. The Board referred the applicant to the definition of Principal Residence, under Article 12.

Mr. Ehrgood MOVED to close the evidentiary portion of the public hearing. Mr. Beal seconded the motion and the Board VOTED unanimously to close the public hearing.

Public Meeting/Findings:

The Board finds under Section 5.011 of the Zoning Bylaw, that:

5.0110 - *A supplemental apartment is a small accessory dwelling unit incorporated as part of and subordinate to a single family detached dwelling. As an accessory use, a supplemental apartment is exempt from the additional lot area/family requirements of Table 3. Supplemental apartments are intended to meet the changing housing needs of owner occupied households, including housing for relatives and others associated with the household, and the provision of small, individual rental units.* The proposal provides for a small dwelling unit within an existing second floor space. Although the use is exempt from the "additional lot area" per family requirement of Table 3, the lot exceeds the minimum requirements for addition of a second dwelling unit. Therefore, the property meets the minimum requirements for a Supplemental Apartment.

5.0111- *The Board of Appeals may authorize under a Special Permit in the Outlying Residence, Low Density Residence, Neighborhood Residence, Village Center Residence and General Residence Districts, one supplemental apartment accessory to the use of a single family dwelling, provided that:* The property is located in the Low Density Residential District (R-LD) and the Farmland Conservation (FC) District. Section 3.28, Farmland Conservation, does not prohibit or regulate single family uses.

5.01110- *There shall not be more than 800 square feet of gross floor area in a supplemental apartment, except that any apartment built and maintained as fully accessible under the provisions of the Americans with Disabilities Act (ADA) may include a maximum of 900 square feet in gross floor area.* As shown on the submitted floor plans, the habitable space on the second floor is 26.5 feet by 24.5 feet or 649 square feet. Therefore, the unit is less than the maximum of 800 square feet.

5.01111- *Any single family dwelling in which a supplemental apartment is constructed shall not be used simultaneously for accessory lodging under any provision of Section 5.010.* This limitation has been made a condition of the approval.

5.01112- *One of the dwelling units shall be occupied by the owner(s) of the principal single family residence, which requirement shall be made a condition of any Special Permit issued under this section.* Owner occupancy is a condition of the approval.

5.01113- Notwithstanding the provisions of Section 12.14, a supplemental apartment shall be occupied by a total of no more than three (3) people. This limitation has been made a condition of the approval.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.*

The Board found that the proposal is suitably located and compatible with other uses in the neighborhood because the Supplemental Apartment is small; is located above and existing garage; and, will provide an additional rental unit on an owner occupied property.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The Board found that the proposal protects from these impacts as the exterior changes required for the use are limited to a deck and exterior staircase both of which will be at the rear of the structure. The proposal provides for four parking spaces, two of which are the existing garage. Trash and recycling will be stored within the garage and all exterior lighting associated with the Supplemental Apartment will be downcast.

10.384 and 10.389 - *Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.* The new construction will be built in accordance with applicable building codes, including means of egress and other safety requirements. The Management Plan provides for a screened trash enclosure and the new dwelling unit will be connected to Town water and sewer.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* As shown on the site plan, four parking spaces are provided inclusive of the two garage spaces pursuant to the requirements of Section 7.0000. The alternative parking arrangement allows a car to park along the west side of the driveway without blocking access to the garage space.

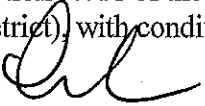
10.393 - *The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions.* A condition of the permit requires that all exterior lights associated with the Supplemental Apartment be downcast to prevent spillage onto adjacent properties.

10.398- *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The Board found that the proposal is in harmony with the purposes of the Bylaw as the new dwelling unit is small; part of an existing single family dwelling; and, will maintain owner occupancy. The proposal meets the goal of the Master Plan to "encourage a greater mix of housing types, sizes, and prices serving a wider range of income levels than is currently available throughout Amherst. Encourage the development of economically diverse neighborhoods."

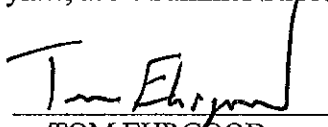
Zoning Board Decision

Mr. Ehrgood MOVED to approve the application with conditions. Mr. Parent seconded the motion.

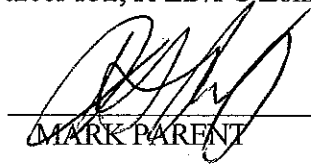
For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00003, to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District), with conditions.



ERIC BEAL



TOM EHRCOOD



MARK PARENT

FILED THIS 1st day of October, 2013 at 2:11 pm,
in the office of the Amherst Town Clerk Sandra J. Burger
TWENTY-DAY APPEAL period expires, October 21, 2013.
NOTICE OF DECISION mailed this 2nd day of October, 2013
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2013.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2013,
in the Hampshire County Registry of Deeds.

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Joshua Hornick and Jennifer Lind

For a Special Permit to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District), with conditions

On the premises of 94 Summer Street

At or on Map 5A, Parcel 152, R-LD/FC Zoning District

NOTICE of hearing as follows mailed (date) August 15, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated August 14, 2013 and August 21, 2013

Hearing date and place August 29, 2013 (Town Hall)

The Amherst Zoning Board of Appeals will meet on *Thursday, August 29, 2013*, at 6:30 P.M. in the TOWN ROOM, Town Hall, to conduct the following business:
PUBLIC HEARING:
ZBA FY2014-00002
- Jeanne Esposito - For a Special Permit to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw, at 71 Middle Street (Map 23B, Parcel 2, R-O Zoning District)
ZBAFY2014-00003-Joshua Hornick - For a Special Permit to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
August 14, 21
3268074

SITTING BOARD and VOTE TAKEN:

a Special Permit, ZBA FY2014-00003, to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, with conditions.

Eric Beal - Yes Tom Ehrgood - Yes Mark Parent - Yes

DECISION: APPROVED with conditions as stated in permit

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Joshua Hornick and Jennifer Lind

Address 94 Summer Street

City or Town Amherst, MA 01002

Identify Land Affected: 94 Summer Street
(Map 5A, Parcel 152, R-LD/FC Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

94 Summer Street Amherst
Street City or Town

The record of title standing in the name of
Joshua Hornick and Jennifer Lind
Name of Owner

Whose address is 94 Summer Street Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 9726 Page 300
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00003
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

[Signature] Chairman
(Board of Appeals)

[Signature] Clerk
(Board of Appeals)

at _____ o'clock and _____ minutes .m.

Received and entered with the Register of Deeds in the County of Hampshire

Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<u>Parcel ID</u>	<u>Parcel Address</u>	<u>Owner1</u>	<u>Owner2</u>	<u>Address</u>	<u>City/Zip</u>
5A-59	19 BALL LN	SHAFIE, SHOHREH & REZA		99 WILDFLOWER DR	AMHERST, MA 01002
5A-56	20-40 BALL LN	MATUSZKO, CARL T & THEODORE C		317 MEADOW ST	AMHERST, MA 01002
5A-114	21 BALL LN	W D COWLS INC		P.O. BOX 9677	AMHERST, MA 01059-9677
5A-61	35 BALL LN	QUIGLEY, LAWRENCE F III		35 BALL LN	AMHERST, MA 01002
5B-83	MILL ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
5B-158	85 MILL ST	BROMELL, NICHOLAS K	DOYLE, LAURA A	85 MILL ST	AMHERST, MA 01002
5B-160	87 MILL ST	CARASIK, LAUREN J	NORMAN, CHRISTOPHER P	87 MILL ST	AMHERST, MA 01002
2D-9	89 PULPIT HILL RD	LEVY, THOMAS C	PRIEST, HALEYA J	89 PULPIT HILL RD	AMHERST, MA 01002
2D-10	95 PULPIT HILL RD	CROUCH, JOYCE B & WAYNE W		95 PULPIT HILL RD	AMHERST, MA 01002
5B-3	SUMMER ST	MASLANKA, JOHN J & STELLA R		1 PLEASANT ST	WARE, MA 01082-1325
5A-150	SUMMER ST	SUNWOOD DEVELOPMENT CORP		84 POTWINE LN	AMHERST, MA 01002
5A-151	SUMMER ST	SUNWOOD DEVELOPMENT CORP		84 POTWINE LN	AMHERST, MA 01002
5A-117	SUMMER ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
5A-62	44 SUMMER ST	HAUGHTON, GREGORY R & KATHLEEN A		44 SUMMER ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
5A-75	47 SUMMER ST	SHANDLER, MICHAEL & NINA		47 SUMMER ST	AMHERST, MA 01002
5A-115	62-62A SUMMER ST	COOK, GARY M & DENISE A		151 BAREFOOT COVE	HYPOLUXO, FL 33462
5A-116	64-66 SUMMER ST	COOK, GARY & DENISE		151 BAREFOOT COVE	HYPOLUXA, FL 33462
5B-25	81-83 SUMMER ST	JOHN GALT ENTERPRISES LLC	C/O CINDA JONES	ATTN: CINDA JONES	NO AMHERST, MA 01059
5B-23	91 SUMMER ST	MANKIN, CAROL E LIFE ESTATE		P.O. BOX 9383	AMHERST, MA 01002
5A-152	94 SUMMER ST	HORNICK, JOSHUA & LIND, JENNIFER KAY		94 SUMMER ST	AMHERST, MA 01002
5B-132	99 SUMMER ST	STEIG, JOSEPH & HARE, ELIZAB		99 SUMMER ST	AMHERST, MA 01002
5B-21	111 SUMMER ST	KASLAUSKAS, PETER PAUL LIFE ESTATE	GEISSLER, SUSAN M	111 SUMMER ST	AMHERST, MA 01002
5B-20	117 SUMMER ST	KAMINSKI, NANCY ANN		117 SUMMER ST	AMHERST, MA 01002
5B-4	124 SUMMER ST	MASLANKA, RICHARD J		1 PLEASANT TERR	WARE, MA 01082-1325
5B-31	125 SUMMER ST	PEARSON, WILBUR & BARBARA		11 PAIGE ST	AMHERST, MA 01002
5B-5	130 SUMMER ST	LUCAS, HELEN M	LUCAS, ALBERT	130 SUMMER ST	AMHERST, MA 01002
5B-19	131 SUMMER ST	PRATT, LEONARD H SR & RUTH C		137 PACKARDVILLE RD	AMHERST, MA 01002
5B-6	134 SUMMER ST	MONTEIRO, CHRISTOPHER		245 WEST ST	AMHERST, MA 01002